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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/629,032 | 07/31/2000 | Luke Surazski | CISCO-2935 | 4744 |

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02/05/2004

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| EXAMINER |
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MILLS, DONALD L

| ART UNIT | PAPER NUMBER |
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2662

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/629,032

Applicant(s)

SURAZSKI ET AL.

Examiner

Donald L. Mills

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-16 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 16 and 25 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 10, 11, 14, 15, 19, 20, 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 12, 13, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6, 15, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "approximately" in claims 6, 15, and 24 is a relative term, which renders the claim indefinite. The term "approximately" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The predetermined time of two seconds is rendered indefinite due to the use of the term approximately.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1, 2, 5, 6, 10, 12, 15, 16, 19, 20, 23, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Pecen et al. (US 6,282,182 B1), hereinafter referred to as Pecen.

Regarding claim 1, Pecen discloses a system that incorporates transmission and reception of GPRS/EDGE data during discontinuous transmission and reception modes, which comprises:

Determining, by the TX unit of the IP telephone,/Means for determining whether silence exists (Claims 1, 10, and 19) (Referring to Figures 2 and 3, during a discontinuous transmission operation, the GPRS/EDGE mobile station **202** stops transmitting on its traffic channel **204**, inherently comprising the detection of silence. See column 3, lines 19-23.)

If silence is detected, then sending, by the TX unit,/Means for sending a first silence indication packet while said TX unit continues to send voice packets (Claims 1, 10, and 19) (Referring to Figures 2 and 3, during discontinuous transmission operation the mobile station **202** stops transmitting on its traffic channel **204**, except for the periodic transmission of a silence descriptor frame **210**. Frame periods **212** which occur between SID frames **210** are available for the transmission of GPRS/EDGE data. See column 3, lines 19-28.)

Waiting, by the TX unit,/Means for waiting a predetermined amount of time to pass (Claims 1, 10, and 19) (By definition, the mobile station **202** waits 480 ms during continuous silence.)

Sending, by the TX unit,/Means for sending a second silence indication packet after the predetermined amount of time passes (Claims 1, 10, and 19) (By definition, the mobile station **202** waits 480 ms during continuous silence, before transmitting a second SID frame.)

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Waiting, by the TX unit, Means for waiting for voice activity to be detected (Claims 1, 10, and 19) (Referring to Figure 8, when circuit-switched voice data is available in Step 300. See column 7, lines 24-25.)

Starting, by the TX unit, Means for starting normal packet activity after the voice activity is detected (Claims 1, 10, and 19) (Referring to Figure 8, when circuit-switched voice data is available in Step 300, the circuit-switched voice data is transmitted on a traffic channel that has been dedicated to voice operation during setup (Step 310). See column 7, lines 24-27.)

Regarding claims 2, 11, and 20, Pecen discloses *wherein the first silence indication has an indication therein which contains the background noise level sensed by the TX unit (Claims 2, 11, and 20) (By definition, the SID frame contains characteristics of the background noise via samples of the silence at the originating terminal.)*

Regarding claims 5, 6, 14, 15, 23, and 24, Pecen discloses *wherein the predetermined amount of time comprises an amount of time sufficient for the RX unit to attenuate the real background noise (Claims 5, 14, and 23)/wherein the predetermined amount of time comprises approximately two seconds (Claims 6, 15, and 24) (During discontinuous transmission, the receiving terminal unit inherently attenuates the real background noise almost immediately when a SID frame is received.)*

Allowable Subject Matter

5. Claims 3, 12, 13, 21, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 7, 16, and 25 are allowed.

Response to Arguments

7. Applicant's arguments, see amendment, filed November 14, 2003, with respect to the rejection of claims 1, 10, and 19, under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of Pecen et al. (US 6,282,182 B1).

8. Applicant's arguments, see amendment, filed November 14, 2003, with respect to claims 7, 16, and 25 have been fully considered and are persuasive. The 35 U.S.C. 102(b) rejection of claims 7, 16, and 25 have been withdrawn.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Mills whose telephone number is 703-305-7869. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 703-305-4744. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Donald L Mills

DLM

February 3, 2004

Chau T. Nguyen

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